

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,  
ex rel DAVID F. ANTOON, et al.,

Plaintiffs,

:

Case No. 3:10-cv-045

-vs-

:

District Judge Thomas M. Rose  
Magistrate Judge Michael R. Merz

CLEVELAND CLINIC FOUNDATION,  
et al.,

Defendants.

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**REPORT AND RECOMMENDATIONS**

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The Court having advised the Plaintiffs that this False Claims Act, 31 U.S.C. § 3730(b)(4)(B), case could not proceed *pro se*, that the United States had now determined that it will not intervene in this action to prosecute it (Doc. No. 6) and that the Court would dismiss the case unless representation of counsel was obtained by November 1, 2010, and the Plaintiffs having failed to obtain representation,

Now, therefore, it is respectfully recommended that this case be dismissed without prejudice for lack of prosecution.

November 8, 2010.

s/ **Michael R. Merz**  
United States Magistrate Judge

**NOTICE REGARDING OBJECTIONS**

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within fourteen days after being served with this Report and Recommendations. Pursuant to Fed. R. Civ. P. 6(e), this period is automatically extended to seventeen days because this Report is being served by one of the methods of service listed in Fed. R. Civ. P. 5(b)(2)(B), (C), or (D) and may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendations are based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within fourteen days

after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See United States v. Walters*, 638 F. 2d 947 (6<sup>th</sup> Cir., 1981); *Thomas v. Arn*, 474 U.S. 140, 106 S. Ct. 466, 88 L. Ed. 2d 435 (1985).